



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

West Texas Medical Associates

Respondent Name

City of San Angelo

MFDR Tracking Number

M4-17-0397-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

October 14, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "We originally billed these claims to Aetna because we were not aware that these charges were work comp until XXXXXXXXXXXX from the City of San Angelo contacted our office on 08/15/16 stating that these claims were filed to the patient's health insurance in error and that they needed to be filed with work comp."

Amount in Dispute: \$2,652.51

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The disputed billing were late-filed. The DOS was 5/12/15. The bills were not submitted until over a year later. The provider has waived its right for MFDR."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|--|-------------------|------------|
| May 12, 2015 | 88305 -26, 88304 -26, 88311-26, 00670/AA | \$2,652.21 | \$0.00 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 29 – The time limit for filing has expired
 - 138 – Claim/service denied. Appeal procedure not followed or time limit not met
 - W3 – Additional payment made on appeal/reconsideration
 - New bills must be submitted within 95 days from the date of service.

Issues

1. Has the requestor waived their right to MFDR?

Findings

1. The requestor is seeking \$2,652.21 for surgical procedures performed on May 12, 2015. The request for MFDR was received on October 14, 2016. 28 Texas Administrative Code §133.307 (c)(1) states,

Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section.

(A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

(B) A request may be filed later than one year after the date(s) of service if:

- (i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability;
- (ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the insurance carrier previously denied payment based on medical necessity; or
- (iii) the dispute relates to a refund notice issued pursuant to a division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice.

Based on the above, the Division is unable to review this request for medical fee dispute as the date received at MFDR was October 14, 2016, which is after one year from the date of service in dispute of May 12, 2015.

The Division acknowledges the requestor's statement of "We originally billed these claims to Aetna because we were not aware that these charges were work comp..." While the Division is unable to review this request, the health care provider should be aware of the following rules that apply to erroneous submission of the medical bill.

28 Texas Administrative Code §133.20 (b) states in pertinent part,

In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied.

Texas Labor Code Sec. 408.0272 (b) states,

"Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

- (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:

- (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured;
- (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or
- (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title; or

(2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider

Based on the requirements of Rule 133.307(c)(1), the requestor has waived their right to MFDR.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

| | | |
|--------------------|---|---------------------------|
| _____ Signature | _____ Medical Fee Dispute Resolution Officer | November 10, 2016 Date |
|--------------------|---|---------------------------|

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.